

1 Edward J. Maney, Trustee  
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8 IN THE UNITED STATES BANKRUPTCY COURT  
9 FOR THE DISTRICT OF ARIZONA  
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12 In re: ) CHAPTER 13 PROCEEDINGS  
13 )  
14 TROY ANTHONY FRAZIER, ) CASE NO. 10-07726-PHX-CGC  
15 DENISE CARTER FRAZIER, )  
16 ) TRUSTEE'S EVALUATION AND  
17 ) RECOMMENDATION(S) REPORT WITH  
18 ) NOTICE OF POTENTIAL DISMISSAL IF  
19 ) CONDITIONS ARE NOT SATISFIED  
20 )  
21 ) RE: CHAPTER 13 PLAN  
22 )  
23 ) (Debtor(s))  
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25 Edward J. Maney, Trustee, has analyzed the Debtor's Chapter 13 Plan and supporting  
26 documents and submits the following evaluation and recommendation(s):  
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29 **General requirements:**

- 30 a. Due to the possibility of errors on the claims docket, it is the attorney's responsibility to review  
31 all proofs of claim filed with the Court and resolve any discrepancies between the claims and  
32 the Plan prior to submitting any proposed Order Confirming Plan to the Trustee.  
33  
34 b. Requests by the Trustee for documents and information are not superseded by the filing of an  
35 amended plan or motion for moratorium.  
36  
37 c. The Trustee will object to any reduction in the Plan duration or payout in a proposed Order  
38 Confirming Plan unless an amended or modified plan is filed and noticed out.  
39  
40 d. The Trustee requires that any proposed Order Confirming Plan state: "The Plan and this  
41 Order shall not constitute an informal proof of claim for any creditor."  
42  
43 e. The Trustee requires that any proposed Order Confirming Plan state: "Debtor is instructed to  
44 remit all payments on or before the stated due date each month. Debtor is advised that when  
45 payments are remitted late, additional interest may accrue on secured debts, which may result in  
46 a funding shortfall at the end of the Plan term. Any funding shortfall must be cured before the  
47 Case can be discharged. This requirement is effective regardless of Plan payments  
48 suspensions, waivers or moratoriums, and must be included in any Plan Confirmation Orders."  
49  
50 f. At the time of confirmation, the Trustee will require the Debtors to certify that they are current  
51 on all required tax filings and any domestic support orders.

- 4 g. At the time of confirmation, the debtor(s) are required to certify, via language in the Order  
5 Confirming, that they are current on all payments that have come due on any Domestic Support  
6 Orders since the filing of their case and that they are current on all required tax return  
7 filings [pursuant to 11 U.S.C. §1308].

8 **Specific Recommendations:**

- 9
- 10 1. Navy Federal Credit Union has filed an objection to the Plan. The Trustee requires the  
11 objections be resolved prior to confirmation of the Plan.
- 12 2. Plan fails to provide a specific day of the month by which the first and subsequent payments are  
13 to be paid into the Plan. The Trustee has established a constructive payment due date of the  
14 21<sup>st</sup> day of the month with the first interim payment to be paid on or before April 21, 2010.
- 15 3. The Proofs of Claim filed by Franklin Capital (2004 Hyundai) and the Arizona Department of  
16 Revenue differ substantially by classification and/or amount from these creditors' treatment  
17 under the Plan. To resolve this discrepancy, the Trustee requires either; a) Debtor object to the  
18 Proof of Claim; b) the creditor sign-off on an Order Confirming; c) the Order Confirming be  
19 altered to pay the creditor pursuant to the Proof of Claim including payment of the contract rate  
20 of interest; or d) Debtor file an Amended Plan to provide for the creditor's claim as shown by the  
21 Proof of Claim.
- 22 4. Arizona Department of Revenue's Proof of Claim dated March 25, 2010 indicates Debtor has not  
23 filed income tax returns for 2009. The Trustee has received a copy of this return from the  
24 debtors. It is the debtors' responsibility to follow-up with the taxing authority to see that the claim  
25 is withdrawn.
- 26 5. The Trustee requires the debtor file an amended Schedule J to remove the reference to both  
27 vehicles that are being paid through the Plan. Plan payments to increase accordingly.
- 28 6. Considering items #1, #3 and #4 above, The Trustee's analysis reveals a \$24,407 funding  
shortfall, which must be cured before the Plan can be confirmed.

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30 In summary, Plan can be confirmed subject to the condition(s) noted above, adequate  
31 funding, and timely filed Stipulated Order Confirming, and Court approval. General unsecured  
32 creditors (including secured creditors with unsecured deficiency balances) will be paid through  
33 the Trustee, subject to timely filed and allowed claims. Chapter 7 reconciliation requirement will  
34 not be met given debtors' scheduled \$9,447 equity in non-exempt property at petition date. **You**  
35 **are hereby advised that the Trustee may lodge an Order of Dismissal should Debtor fail to**  
36 **resolve item(s) #3, #5, #6 above and submit a Stipulated Order Confirming to the Trustee**  
37 **for review and signature or request a hearing within 30 days from the date of the mailing**  
38 **of this Trustee's Recommendation.**

Dated: [see electronic signature]

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Edward J. Maney, Trustee

Copies of the forgoing  
mailed on [see electronic signature],  
to the following:

Troy Frazier  
Denise Frazier  
38981 N. Luke Lane  
Queek Creek, AZ 85242  
Debtor

William R. Richardson, Esq.  
1745 S. Alma School Road  
Suite #100  
Mesa, Arizona 85242  
Debtor's counsel

By: \_\_\_\_\_  
Trustee's Clerk